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ABSTRACT

This article summarizes "The Majority Rule Act for Smaller Classes, Safer Schools and Financial Accountability" (Proposition 26). The Majority Rule Act deals with the percentage vote that a school district, county office of education, or community college, needs in an election to authorize local general-obligation bonds for school construction. It also provides for funding for classrooms in charter schools. Current law in California requires a two-thirds vote to approve local bonded indebtedness. The report details the major arguments for and against this policy and discusses how schools currently have two major sources of funds for facilities: local general-obligation bonds authorized by two-thirds of the voters in a school district or state general-obligation bonds authorized by a majority of all state voters. It describes how local general-obligation bonds are used for school buildings and how state bonds supplement local money. It details the need for new or renovated facilities, specifying how the majority of the schools in the state are more than 30 years old. Counted among proponents for the measure are major education organizations, charter-school advocates, and business groups. Opponents include the Howard Jarvis Taxpayers' Association. A synopsis of the potential financial impact of Proposition 26 is provided. (RJM)

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January 2000

Election Brief: Proposition 26

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The Majority Rule Act

ED 439 504

EdSource

Clarifying Complex Education Issues

To help voters understand "The Majority Rule Act for Smaller Classes, Safer Schools and Financial Accountability," EdSource—a nonprofit, nonpartisan education research organization—developed this impartial analysis that briefly outlines the measure's provisions and summarizes the major arguments pro and con.

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California voters once again will make a major policy choice about public education on March 7, 2000. This time the ballot measure concerns the percentage vote that a school district, county office of education, or community college needs in an election to authorize local general obligation bonds for constructing or renovating school buildings. "The Majority Rule Act for Smaller Classes, Safer Schools and Financial Accountability" also addresses funding for classrooms in charter schools.

Proposition 26 is an initiative circulated for voter signatures by Silicon Valley entrepreneur Reed Hastings. Qualifying for the ballot with far more than the required 670,000 validated signatures, the initiative states its rationale is "to prepare our children for the 21st Century, to implement class size reduction, to ensure that our children learn in a secure and safe environment, and to ensure that school districts are accountable for prudent and responsible spending for school facilities."

If approved by a majority of voters statewide, Proposition 26 would:

- ✔ reduce the vote required to approve a local general obligation school bond from two-thirds (66.7%) to a simple majority (50% + 1);
- ✔ add performance and financial accountability requirements, including audits, for the use of local bond money; and
- ✔ require school districts to provide "reasonably equivalent" facilities for charter schools attended by the district's students.

Proposition 26 would allow majority approval for local school bonds

California's Constitution has always required a two-thirds vote to approve local bonded indebtedness. Proposition 26 would amend Articles XIIIA and XVI to authorize a simple majority vote for approval of local school bonds.

Bonds could be used for constructing, rehabilitating, furnishing, and equipping schools

An approved general obligation bond for a public school district, community college, or county office of education could be used for the "construction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities." The bond proceeds could also be used for the "acquisition or lease of real property." The money could not be spent for any other purpose, such as "teacher and administrator salaries and other school operating expenses."

Certain disclosures and audits are required

Before holding an election, a school district would have to publicize a list of the intended projects, along with certification that it evaluated "safety, class size reduction, and information technology needs" before preparing the list.

After the election, two annual independent audits would provide accountability. The performance audit would ensure that the funds were spent only as planned, and the financial audit would track the expenditures until all of the proceeds were used. The initiative does not include review of the required audits or sanctions.

Currently schools have two major sources of funds for facilities

School districts have two major sources of funds for constructing or reconstructing schools. The first is local general obligation bonds authorized by two-thirds of the voters in a school district. The second is state general obligation bonds authorized by a majority of all state voters.

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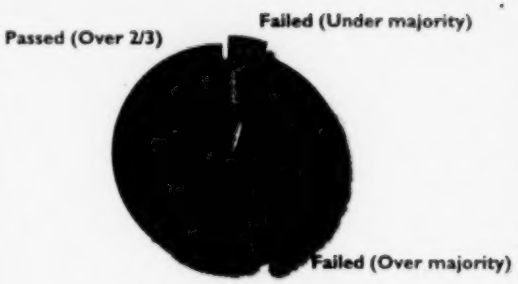
Figure 1

Results of Local Bond Elections Since 1986

Cumulative Total



Slightly more than half of the 776 elections achieved the required two-thirds vote, for a total of almost $17 billion in bonds. Only 6% had less than a majority vote. If a majority vote had been sufficient for passage, another 40% (311 elections) would have succeeded for an additional $14 billion.

Year-by-Year Totals

	Failed (Under majority)	Failed (Over majority)	Passed (Over 2/3)	Total Number	Percent Passed
1986			2	2	100%
1987	2	12	15	29	52%
1988	1	12	20	33	61%
1989	1	13	14	28	50%
1990	4	13	15	32	47%
1991	2	31	22	55	40%
1992	6	28	24	58	41%
1993	8	16	21	45	47%
1994	2	27	21	50	42%
1995	10	34	40	84	48%
1996	0	15	35	50	70%
1997	2	38	70	110	64%
1998	4	42	70	116	60%
1999	3	30	51	84	61%
Total	45	311	420	776	54%

Data: EdSource

EdSource 1/00

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Local general obligation bonds are used for school buildings

Local general obligation bonds are repaid, with interest, through local property taxes. Proposition 13 limited property taxes to 1% of the assessed value of the district's property unless voters had approved a bond before July 1, 1978. In 1986 California voters passed Proposition 46. This measure amended the Constitution to permit local entities, such as school districts and community colleges, to increase property taxes above the 1% level in order to repay general obligation bonds—if two-thirds of the local voters agreed. (Article XVI, Section 18 of the Constitution permits a majority vote to repair, reconstruct, or replace buildings that are "structurally unsafe for school use.")

Fewer than half of California's school districts have called elections for local general obligation bonds in the past 15 years. (See Figure 1.) Some have put bonds on the ballot several times, usually because of initial failures.

State bonds provide funds approved to supplement local money

State school bonds have paid for about half of the expenditures for school facilities since 1986. More than $17 billion in state bonds for K-12 and community college facilities has been authorized since 1986. (See Figure 2.)

The most recent measure in November 1998 was a multi-year bond for $9.2 billion, with $6.7 billion of it targeted to K-12 education and $2.5 billion for higher education. Voters approved Proposition 1A with a 62.5% "yes" vote in 1998. The K-12 funds are for new construction ($2.9 billion), renovation ($2.1 billion), class size reduction ($700 million), and other needs ($1 billion) over the next four years.

As of December 1999, all of this year's modernization money had been disbursed. The requests that were either approved or in process exceeded the amount of available money for new construction. Funding for some of those projects will have to await release of the 2000–2001 funds in July. All of the bond money is expected to be fully used by 2002.

Since 1998 the state has required school districts to match state funds with a local contribution—50% for new facilities and 20% for renovation. (No match is required in "hardship" cases.) In addition, participating districts must agree to allocate 3% of their General Fund to maintenance annually for 20 years.

Local matching funds come from a variety of sources

School districts have several local sources for funding facilities. Many districts collect fees, commonly called "developer fees," on residential and commercial development within their boundaries. Districts may sell or lease any unused buildings or sites within their boundaries. A district can form a "Mello-Roos" Community Facilities District, often in a newly developing area, to raise additional taxes with a two-thirds vote of the landowners. Another type of election that levies a tax on individual parcels of property (with two-thirds approval) is permitted, though the proceeds from those elections are usually used for programs rather than facilities. Proposition 26 does not address Mello-Roos or parcel tax elections.

Far fewer districts hold parcel tax or Mello-Roos elections, and only about half of them achieve a two-thirds vote. The major source for the necessary matching funds is usually local general obligation bonds.

The need for new or renovated facilities is felt statewide

Whether in an inner city, a rural community, or a suburban area, school districts throughout California are in dire need of money for facilities. The majority of the schools are more than 30 years old, not modernized for technology, and in disrepair from years of little or no maintenance. Some districts are growing rapidly—about 80,000 new students enroll in the state's K-12 schools each year. The almost universal adoption of smaller K-3 classes adds further pressure for more classrooms.

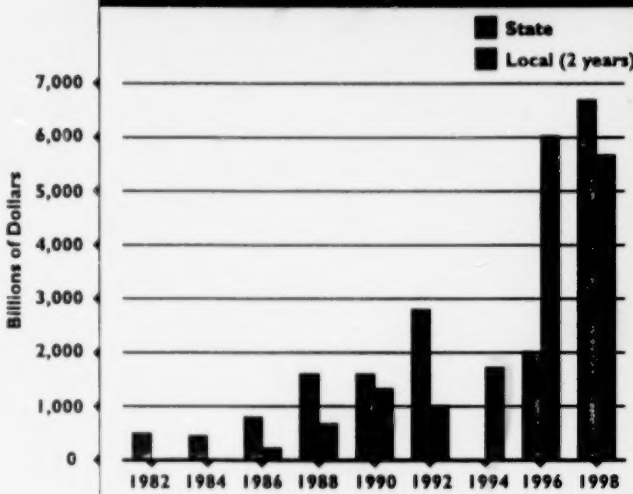
In January 2000 the California Department of Education estimated the statewide need for facilities as:

- ✔ $5.2 billion in new construction for the next five years, $7.2 billion over 10 years;
- ✔ about $8 billion in renovation for five years; and
- ✔ $2.6 billion for deferred maintenance over five years.

Proposition 26 has its friends and its foes

The disagreement over Proposition 26 is not about the magnitude of the need for new and improved classrooms

Figure 2
State and Local School Bond Elections



Since 1986, local bond elections have occurred several times each year in different districts. The local election totals shown in this chart are each for two years, beginning with 1986–87. State bond elections may be held only in even-numbered years.

Data: EdSource, Governer's Budget 1999–2000 EdSource 1/00

in California, but rather about how it should be addressed and by whom. It involves questions about taxpayers' responsibilities to California's system of public education and who should make the decisions about how to finance schools.

Proponents include major education organizations, charter school advocates, and business groups

A measure similar to Proposition 26 was on the November 1993 ballot, but an initiative for school vouchers captured most of the attention and campaign money. For the March 2000 election, the major education organizations are focused on Proposition 26. The California Teachers Association, the Association of California School Administrators, the California School Boards Association, and the California State PTA are all in favor of the initiative.

Charter school advocates also support this ballot measure. The author of the initiative, Reed Hastings, has had a particular interest in charter schools as well as in public education generally.

Endorsements have come from many influential private and corporate groups, such as the California

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CLASSROOMS FOR CHARTER SCHOOLS

Proposition 26 also amends Section 47614 of the Education Code to guarantee that students who attend a charter school in their district of residence have facilities that are "sufficient" and "reasonably equivalent" to the other buildings or classrooms in the district. The rationale is that "public school facilities should be shared fairly among all public school pupils, including those in charter schools...who should be entitled to reasonable access to a safe and secure learning environment."

Under current law, school districts must offer charter schools any facilities that are not being used for instruction or administration. The charter school must provide maintenance for the facilities.

As of July 1, 2003 (or earlier if a local school bond measure passed between 2000 and 2002), the district would have to provide a facility "near to where the charter school wishes to locate," and the location should not be moved "unnecessarily." Further, the classroom space would have to be "contiguous, furnished and equipped." This provision would apply only to a charter school with a minimum of 80 students who live within the district's boundaries.

Districts would not have to use their General Fund dollars to "rent, buy, or lease facilities" for charter school students, though they could choose to do so. Using district money from a bond election would be an alternative. If the district did spend unrestricted General Fund revenues, it could charge the charter school a prorated share of its expenditures. The proposition prevents districts from levying other charges on the charter school.

If the charter school's "average daily classroom attendance by in-district students" fell below projections, the charter school would have to reimburse the district for the excess ("overallocated") space at rates set by the State Board of Education.

Current law controls the formation of charter schools

About 88,000 students were in about 250 charter schools as of October 1999. Up to 100 more charter schools are permitted each year until the Legislature reviews the charter school laws in 2003.

Charter schools may be created by converting an existing public school or by starting a new school. Converted public schools already have a building provided by the school district. The situation for start-up charter schools varies widely. Some of them find satisfactory facilities in cooperation with their sponsoring agency (usually a school district), but many have to use their limited operational funds to pay rent. Minnesota, Arizona, and Florida provide state support for charter facilities, but California does not. Under that circumstance, which is unlikely to change soon, charter school advocates support the provisions of Proposition 26 as a best "second chance," according to Eric Premack of the Charter Schools Development Center, Institute for Education Reform. He predicts that lack of affordable space will stifle some charter schools.

Organizations have expressed concern about the costs of the charter school provision

Some of the major education organizations, such as the Association of California School Administrators, the California School Boards Association, and the California State PTA have expressed concern about the potential financial burden on school districts from the proposition's requirement that the district provide reasonably equivalent space. These groups are working for the passage of Proposition 26, but they are also considering further legislation about districts' responsibilities to charter schools.

The added expenses for school districts with charter schools would depend on their circumstances, including the existing availability of classrooms or schools, the number of charter schools, and how many of the district's resident students are in them. Costs could include construction, renovation, and equipment paid for by the district that may not be fully reimbursable under the provisions of the proposition. Districts could ask for state matching funds for constructing facilities for a charter school.

The costs to charter schools, which currently pay little or nothing to the school district, could rise if they had to reimburse the district for a portion of its General Fund expenditures. A charter school could also face higher costs if enrollment fell below the attendance projections on which the space allowance was based. But a charter school with an expensive lease would be relieved by the proposition's requirement that the school district provide the classroom space.

Proposition 26 leaves unanswered questions

The State Board of Education would have the task of establishing regulations and of defining several crucial terms. These include "average daily classroom attendance," "conditions reasonably equivalent," "in-district students," and "facilities costs." In addition, the board is charged with setting the procedures and timelines for the interactions between the district and its charter schools.

The precise meaning of "equipped and furnished" could also need definition. Current Education Code section 15100 specifies that bond proceeds may be used for "furniture, equipment, or necessary apparatus" if these items are "of a permanent nature." The interpretation of this language has varied by county, with a tendency toward restrictions on uses of both the proceeds and any interest to exclude, for example, computers and desks. Proposition 26 may be a departure that will permit the use of bond proceeds to acquire furnishings and equipment for classrooms.

The Legislature, by majority vote, could further amend the charter school provisions in Proposition 26.

Manufacturing Association, the American Electronics Association, and California Business for Education Excellence. Public-interest groups such as the League of Women Voters, American Association of University Women, and the Congress of California Seniors, are supporting it as well. The California Taxpayers Association has previously opposed lowering the vote threshold. The association's board was expected to take a position on Proposition 26 in late January.

Unanimous support came from the board of TechNet, a group of high-tech business leaders. Venture capitalist John Doerr commented that "this campaign is deeply in the self-interest of the tech community" because of the potential for a better educated workforce.

This time a broad coalition is mounting a well-financed, aggressive campaign for a "yes" vote. CTA Vice President Barbara Kerr co-chairs the coalition with Hastings, and she is optimistic. A November Field poll showed a 59% to 36% approval rate, with a slight majority of Republicans saying they would vote "no."

The proponents' arguments are explained by a group called "Let's Fix Our Schools" on their website (www.letsfixourschools.com):

- ✔ The proposal makes it easier to "invest in our children's education."
- ✔ Proposition 26 restores power over local funding to a local majority.
- ✔ The proposition guarantees "strict accountability" for how the money is spent, in particular not on salaries or administrative costs.
- ✔ Intended expenditures must be listed in advance.
- ✔ It permits expenditures for technology.
- ✔ The proposal provides comparable treatment for charter school students.
- ✔ Only three other states—Idaho, Missouri, and New Hampshire—require a super-majority vote for local bonds.

Disappointed supporters of failed bond elections believe that the two-thirds vote is undemocratic because it takes two "yes" votes to offset one "no." Mounting a local bond election campaign is expensive, they say, and often takes multiple tries. Further, elections are easier to win in some districts than others with less favorable circumstances, particularly urban ones. Many districts ask for less than their real need, setting a lower amount to improve the chance that voters will approve the measure; and more than half have never called an election.

Opponents include Howard Jarvis Taxpayers' Association

Opposition to Proposition 26 is headed by Jon Coupal of the Howard Jarvis Taxpayers' Association. He and his colleagues oppose watering down the historical requirement for a two-thirds vote, and they consistently object to raising the property tax beyond the Proposition 13 amount.

Their web site (www.saveourhomes.com) includes the following arguments:

- ✔ A majority vote does not make sense at the local level because it affects just one group of taxpayers, property owners.
- ✔ The local matching requirement should be met by alternative local sources, such as developer fees and "existing revenues."
- ✔ In a previous election, California voters preferred to keep the two-thirds vote requirement.
- ✔ Many districts have successfully gained two-thirds approval in a bond election, in part because of more sophisticated campaigns.
- ✔ The "accountability" provisions of Proposition 26 are specious.

They assert that because a majority vote is relatively easy to achieve, districts will request "extravagant" bond measures and therefore ". . . homeowners could see their property taxes soon double." Passage of Proposition 26 will likely lead, they say, to an elimination of the two-thirds vote protection for all bonds and school taxes, such as parcel taxes.

They believe that the current law "strikes a reasonable balance in providing significant funding for school facilities while at the same time protecting taxpayers from substantial property tax increases."

Others comment that existing facilities in a school community could be used more efficiently, particularly if state requirements for school buildings are relaxed, and that education could be delivered in non-traditional ways, such as over the Internet. Lance Izumi of the Pacific Research Institute asserts that the two-thirds vote is not an "insurmountable obstacle" and actually motivates districts to justify their need for school bonds. Further, he says, a majority vote would not necessarily help

THE POTENTIAL FINANCIAL IMPACT OF PROPOSITION 26

A state general obligation bond is significantly different from a local general obligation bond. When state voters authorize state general obligation bond debt, they pledge the "full faith and credit" of the state for punctual payment of the principal and interest. They also enact an annual appropriation that makes these payments from the state's revenues without an increase in state taxes.

When voters authorize a local general obligation bond, they are simultaneously authorizing an increase in local property taxes to pay the principal and interest due on the bonds. The "general obligation" assumed by voters is whatever property tax increase is necessary for the payments. Local bond proposals always include an estimate of the increase that will result from approval of the bond measure, but it is only an estimate. If assessed value does not grow as projected or if interest rates are higher or lower than anticipated when the bonds are sold, the actual property tax will differ from the tax estimated at the time bonds were authorized.

Proposition 26 could shift a substantial part of the state's debt service to local debt service for kindergarten through community college facilities. If successful local elections reduced the need for statewide bond elections, the state's cost of debt service would be lower. It is currently about $900 million annually, according to the Governor's Budget 1999–2000. More local bonds could also reduce requests for hardship funding from the state.

The state's savings in debt service would be picked up through increased property taxes in districts with successful elections. The impact on property owners would depend on local factors, such as enrollment growth, the condition of existing buildings, the need for new classrooms, and the assessed value of property.

The increase in local debt service overall could be "hundreds of millions of dollars annually within a decade," the Office of the Legislative Analyst (LAO) states.

The LAO does not address the potential costs to districts of the audits required by Proposition 26.

poorer school districts and would let lawmakers off the hook from using state resources for construction. His preference is to provide "opportunity scholarships" so private schools can enroll some of the growing student population, thus reducing the pressure for public school facilities.

As of early January, the opposition to charter school provisions in Proposition 26 has been limited to concerns expressed by education organizations that support the proposition overall.

Voters can expect to hear more about Proposition 26

With major organizations focusing on this initiative, it is likely that voters will be hearing a lot more about Proposition 26 as March 7 draws near. The passage of this proposition could help school districts raise local funds to fix aging and crowded school buildings and to build new ones in fast-growing areas. Voters will have to decide whether they believe it is fair and necessary to give control to a simple majority on this important issue.

Sources of Information on Proposition 26

Proponents and opponents of Proposition 26 have their arguments and supporting information on their websites: www.saveourhomes.com and www.letsfixourschools.com. The Legislative Analyst's review of the March ballot measure is at www.lao.ca.gov, and the text of the proposition is provided by the secretary of state at www.ss.ca.gov.

For background on school facilities, see the April 1998 EdSource report, *California's School Facilities Predicament.* Two companion pieces, *Portable School Buildings* and *What Has Created California's School Predicament*, are available from the EdSource office or at www.edsource.org. Additional materials prepared by EdSource, including *School District Bond and Tax Elections* and *Understanding California's School Facilities Crisis*, are at www.ed-data.k12.ca.us.

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